

# GAY & LESBIAN TIMES

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## Schwarzenegger signs anti-discrimination law

Health care insurance cannot discriminate against transgender status under AB 1586

BY ANTHONY BALDMAN, REPORTER

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The same day Gov. Arnold Schwarzenegger vetoed Assembly Bill 849, the Religious Freedom and Civil Marriage Protection Act, he approved legislation that bans denial of insurance coverage based solely on a person's transgender status. California became the first state in the nation to enact such a protection.

AB 1586 – first introduced by Assemblymember Paul Koretz, D-West Hollywood, in February – will add gender and gender identity to existing anti-discrimination provisions in California laws regulating insurance companies and health care service plans. The new law, signed Sept. 29, will take effect on Jan. 1, and prohibits insurance companies and health plans from discriminating on the basis of gender identity in the creation and maintenance of contracts and policies, or in the provision of services and benefits coverage.

"Transgender people are part of our human family, and they deserve equal access to health coverage and treatments available to everyone else," Koretz said in a statement. "AB 1586 goes a long way toward ending the indignities that transgender men and women face when trying to access health care. This is a matter of human compassion and basic fairness."

The bill defines the term "sex" to include, but not be limited to, a person's gender, as specified under an existing law that prohibits health care service plans and insurers from specified discriminatory acts. It will add "sex" to the insurance provision governing life and disability insurers under Section 10140 of the Insurance Code.

Section 1365.5 of the Health and Safety Code will also be amended to clarify that transgender people are protected under the existing prohibition of discrimination based on sex. The definition of the word "sex" according to this law will become the same as the Fair Employment and Housing Act's definition, as well as the definition in other provisions of California Code. The word "gender" will mean sex, and includes a person's gender identity, gender-related appearance and behavior – whether or not stereotypically associated with the person's assigned sex at birth.

Both the state Senate and Assembly passed AB 1586 bill in early September after it passed through various committees, and after several revisions and intense negotiations with insurance companies. The Senate approved the bill with a 23-14 vote on Sept. 6, and the Assembly followed with a 45-34 vote the next day.



West Hollywood Assemblymember Paul Koretz (above) sponsored Assembly Bill 1586, which adds gender identity to existing anti-discrimination provisions in California's insurance regulation laws.

“California’s elected officials should be commended for giving attention to this important issue,” said Geoffrey Kors, executive director of Equality California, which sponsored the bill. “A ban on transgender discrimination in the provision of health insurance coverage is long overdue.”

Many population groups in California experience discrimination by insurance companies and health plans on the basis of gender, particularly members of the transgender community, Equality California said. Discrimination still occurs despite existing state statutes prohibiting discrimination based on sex, and members of the transgender community are regularly denied the ability to buy insurance or coverage for medically necessary procedures because they identify as transgender.

Steve Hansen, legislative director for Equality California, said AB 1586 resulted from two public hearings, which were conducted in San Francisco last November and in Los Angeles in February.

“Legislators came together with members of the [transgender] community and other leaders to listen to health care issues that the transgender community have. Whether its denial of coverage, whether its denial of procedure – just the general problems that they have accessing care,” Hansen said. “It’s fairly significant and it’s more significant, the problems that they face, than almost any other group. We knew after those hearings that we had to do something about it.”

The Transgender Law Center and the National Center for Lesbian Rights released a report in 2002 showing that 93 percent of transgender survey respondents utilized medical services as part of their transition. The study found that nearly one in three respondents experienced some form of health care discrimination, including the routine denial of coverage by health insurers for transition-related procedures and discriminatory or inappropriate behavior by health care providers and staff.

The Transgender Community Health Project, a part of the Center for HIV Information at the University of California San Francisco, published a report in 1999 in which 13 percent of male-to-female and 39 percent of female-to-male interviewees reported being denied health care or having difficulties obtaining it.

Over 55 organizations signed on to support AB 1586, including the California Medical Association, the California Psychological Association, the California State Employees Association, Planned Parenthood Affiliates of California, the California National Organization for Women, and the city and county of San Francisco, along with numerous GLBT groups.

The Traditional Values Coalition has been the only group to register their opposition to the bill.

Hansen reflected on the significance of Schwarzenegger signing this bill, but vetoing the marriage equality on the same day. “I think that it’s interesting that the governor is sort of trying to play both sides,” he said. “I don’t know how they made their decision on this one. I think it was largely credited to our community building support for this bill.”